



Minutes Formal City Council Meeting January 10, 2013

Minutes of the Formal Council Meeting of Thursday, January 10, 2013, held at 7:30 p.m. in the Harry E. Mitchell Government Center, Tempe City Hall, City Council Chambers, 31 E. Fifth Street, Tempe, Arizona.

COUNCIL PRESENT:

Mayor Mark W. Mitchell
Councilmember Robin Arredondo-Savage
Councilmember Kolby Granville
Councilmember Corey D. Woods

Vice Mayor Onnie Shekerjian
Councilmember Shana Ellis
Councilmember Joel Navarro

STAFF PRESENT:

Charlie Meyer, City Manager
Andrew Ching, City Attorney
Lisa Collins, Interim Community Development Director
Various Department Heads or their representatives

Jeff Kulaga, Assistant City Manager
Brigitta M. Kuiper, City Clerk
Kathy Berzins, Community Services Director

Mayor Mitchell called the meeting to order at 7:42 p.m.

1. Councilmember Navarro gave the invocation.
2. Mayor Mitchell led the audience in the **Pledge of Allegiance**.

3. MINUTES

A. Approval of Council Meeting and Council Committee Meeting Minutes

Motion by Councilmember Arredondo-Savage to approve the following COUNCIL MEETING AND COUNCIL COMMITTEE MEETING MINUTES; second by Councilmember Woods. Motion passed unanimously on a voice vote 7-0.

1. Formal Council Meeting - December 13, 2012
2. Issue Review Session - August 9, 2012, September 6, 2012, September 20, 2012, October 4, 2012, November 1, 2012
3. Executive Session - December 13, 2012
4. City Council Annual Retreat - August 24, 2012
5. Economic, Lake, Downtown and Advanced Transportation Council Committee - October 22, 2012

B. Acceptance of Committee, Board & Commission Meeting Minutes

Motion by Councilmember Arredondo-Savage to accept the following COMMITTEE, BOARD AND COMMISSION MEETING MINUTES; second by Councilmember Woods. Motion passed unanimously on a voice vote 7-0.

1. Aviation Commission - November 13, 2012
2. Commission on Disability Concerns - November 1, 2012
3. Development Review Commission - November 13, 2012

4. Development Review Commission Study Session - November 13, 2012
5. Hearing Officer - December 4, 2012 and December 18, 2012
6. Human Relations Commission - October 9, 2012
7. Joint Review Committee - June 6, 2012 and November 7, 2012
8. Mayor's Youth Advisory Commission - November 20, 2012
9. Neighborhood Advisory Commission - October 3, 2012 and December 5, 2012

4. REPORTS AND ANNOUNCEMENTS

A. Mayor's Announcements

Mayor Mitchell announced that the Tempe 311 system, the first centralized call center for a city in Arizona, will be available for free as an app on smart phones. He noted that 9-1-1 should still be used for emergencies, while the Police Department's non-emergency line, (480) 350-8311 should be used for police issues.

B. Manager's Announcements – None.

5. AGENDA

All items in these minutes identified with an asterisk (*) **are public hearing items**. All items listed on the agenda are approved with one City Council action. Items scheduled for Introduction/First Public Hearing will be heard but not adopted at this meeting. Items scheduled for Second Public Hearing/Final Adoption will be voted upon at this meeting.

Mayor Mitchell announced consideration of the **AGENDA** items.

Motion by Vice Mayor Shekerjian to approve the Agenda with the exception of items 5A2, 5D3, 5D4, 5D5, 5E1 and 5E2, which were removed for separate consideration; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.

A. Miscellaneous Items

- A1. Approved a Final Subdivision Plat for FPM located at 1101 East Warner Rd. The applicant is Stoffel Design, Inc.

Fiscal Impact: There is no fiscal impact on City funds.

The following conditions of approval apply:

1. The Subdivision Plat shall be put into proper engineered format with appropriate signature blanks and recorded with Maricopa County Recorder's Office through the City of Tempe, Community Development Department on or before January 10, 2014. Failure to record the plat on or before January 10, 2014, one (1) year from date of City Council approval, shall make the approval of the plat null and void.
2. All property corners shall be set and verified with staff upon final recordation of the subdivision plat, no later than three (3) months from the date of County recordation or as determined by staff.

- *A2. THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold a public hearing for an appeal of the denial for a Development Plan Review consisting of a new six-story 341 unit multi-family residential development for THE HANOVER PROJECT, located at 101 West 5th Street. The appellant is Gammage & Burnham PLC.

- *A3. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Barzinis, LLC, dba Barzinis Italian Restaurant, 1250 East Apache Boulevard, #101.

Fiscal Impact: N/A

- *A4. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Delhi Sweets & Snacks Inc., dba Delhi Sweets & Snacks Kohinoor Cuisine of India, 1043 East Lemon Street.

Fiscal Impact: N/A

- *A5. Held a public hearing and recommended the approval of a Series 12 restaurant liquor license for Barley Bros LLC, dba Spokes On Southern Neighborhood Grill & Ale House, 1470 East Southern Avenue.

Fiscal Impact: N/A

B. Award of Bids/Contracts

- B1. Approved the utilization of a one-year National Intergovernmental Purchasing Alliance contract awarded by the City of Tucson to Toter, Inc. for the purchase of 96-gallon refuse containers for use as needed by the Public Works Department.

Fiscal Impact: Total cost of this one-year contract will not exceed \$100,000. Sufficient funds have been appropriated in the Solid Waste Fund, cost center 3713, for the anticipated expenditures in the current fiscal year.

- B2. Approved the utilization of a one-year City of Tucson contract with PSC Mobile for the purchase of Panasonic Toughbook PC's, tablet PC's, accessories, related services and microwave communications equipment for the Fire Department, Police Department and other City departments on an as needed basis.

Fiscal Impact: Total cost of this contract will not exceed \$300,000 during the one-year contract period. Sufficient funds have been appropriated in various City-wide operating and capital improvement funds for the anticipated expenditures in the current fiscal year.

- B3. Approved the utilization of a one-year Western State Contracting Alliance cooperative contract with SHI International Corporation for the purchase of desktop and server operating system software, Microsoft Enterprise software support, software licensing and related services for the Finance and Technology Department and other City departments.

Fiscal Impact: Total value of this contract shall not exceed \$900,000 for the one-year contract term. Sufficient funds have been appropriated in various City wide cost centers for the anticipated expenditures during the current fiscal year.

- B4. Approved the renewal of a two-month contract with MeadWestvaco Specialty Chemicals for the purchase of powdered activated carbon for use by the Public Works Department.

Fiscal Impact: Total cost of this contract will not exceed \$219,000 during the two-month renewal period. Sufficient funds have been appropriated in cost centers 3013 and 3014 (Water/Wastewater Fund) for the anticipated expenditures in the current fiscal year.

- B5. Awarded a one-year contract with a one-year renewal option to AH Water, Inc. for the purchase of an odor controlling chemical used to treat wastewater for the Public Works Department. **(Contract #2013-02)**

Fiscal Impact: Total value of this contract shall not exceed \$315,326.13 for the one-year contract term. Sufficient funds have been appropriated in cost center 3035 (Water/Wastewater Fund) for the anticipated expenditures during the current fiscal year.

- B6. Approved an increase of the contract value to contracts with FlexGround, LLC and Robertson Industries for the supply and installation of rubberized playground safety surfacing utilized by the Community Services Department.

Fiscal Impact: Additional spending will not exceed \$220,000 for the awarded firms and will increase the total contract amount for all contracts from \$49,999 to \$269,999. The contracts are valid through August 21, 2013. Sufficient funds have been appropriated in cost centers 6305499 (Park Playground Replacement), 6399829 (Park Infrastructure/Equipment Replacement), and 6808A (Kiwanis Park Playground Renovation) for the anticipated expenditures in the current fiscal year.

- B7. Approved an increase to the value of the contracts with Aquatic Environmental Systems and Thatcher Company of Arizona for the purchase of swimming pool chemicals for use by the Aquatics Division of the Community Services Department.

Fiscal Impact: Additional spending will not exceed \$50,000 for the awarded firms and will increase the total contract amount for all contracts from \$120,000 to \$170,000. The contracts are valid through May 22, 2013. Sufficient funds have been appropriated in cost center 2533 (General Fund) for the anticipated expenditures in the current fiscal year.

- B8. Approved the Agreement between USA Triathlon, a Colorado corporation, the Tempe Convention and Visitors Bureau and the City of Tempe to host the 2013 and 2014 Collegiate National Championships. **(Contract #2013-03)**

Fiscal Impact: All City services will be paid by USA Triathlon and with a grant provided by the Tempe Convention and Visitors Bureau. The City will waive the special event application, park rental and application fees. Tempe is guaranteed 1,000 room nights over 5 days with an estimated \$1 million dollars in economic impact.

- B9. Approved the utilization of a one-year Western States Contracting Alliance cooperative contract with Verizon Wireless for the purchase of a wide variety of wireless devices and airtime service to include cellular phones, smart phones, tablets, laptops and hotspot devices for all City departments.

Fiscal Impact: Total value of this contract shall not exceed \$480,000 for the one-year contract term. Sufficient funds have been appropriated in various City-wide cost centers for the anticipated expenditures during the current fiscal year.

- B10. Awarded a one-year contract with four, one-year renewal options to Fisher Scientific Company for the purchase of Mine Safety Appliances Company gas detectors, calibrators, accessories, equipment, parts and consumables for the Public Works Department. **(Contract #2013-04)**

Fiscal Impact: Total cost of this contract will not exceed \$73,785.71. This amount includes the lowest firm's total bid cost of \$65,785.71 plus a contingency of \$8,000 for miscellaneous purchases that could include consumables and equipment repair

and/or replacement over the initial one-year term. Sufficient funds have been appropriated in cost center 3002 (Water/Wastewater Fund) for the anticipated expenditures in the current fiscal year.

C. Ordinances and Items for Introduction/First Hearing - These items will have two public hearings before final Council action

- *C1. Introduced and held the first public hearing to adopt an ordinance for a Zoning Map Amendment from R-4 to R1-PAD for a Planned Area Development Overlay with development standards for eight new attached single-family townhomes for KENNETH PLACE TOWNHOMES, located at 1419 and 1425 S. Kenneth Place. The applicant is Mario Mangiamele, of Iplan Consulting. The second and final public hearing was scheduled for January 24, 2013. (Ordinance No. 2013.06)

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

D. Ordinances and Items for Second Hearing/Final Adoption

- *D1. Held the second and final public hearing and adopted **ORDINANCE NO. 2013.01** amending Chapter 19, Article IX, Tempe City Code, relating to Residential Permit Parking, by amending Section 19-113, relating to Issuance of Permits; Signing; Exemptions, and by adding a new Section 19-116, relating to Permit Visibility; Placement.

Fiscal Impact: N/A

- *D2. Held the second and final public hearing and adopted **ORDINANCE NO. 2013.02** granting a utility easement to Arizona Public Service Company over certain City-owned land for electrical lines and appurtenant facilities for the transmission and distribution of electricity to serve the Residence Inn project located at 510 South Forest Avenue.

Fiscal Impact: N/A

- *D3. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance for a Planned Area Development Overlay consisting of a new 4,027 square foot restaurant/drive-thru building with 1,300 square feet of outdoor dining for CHICK-FIL-A, located at 25 West University Drive. The applicant is Kerr Project Services Inc. (Ordinance No. 2013.03)

- *D4. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay consisting of a proposed mixed-use development including 326 dwelling units all within a fourteen story building for THE GROVE AT 1000 EAST APACHE, located at 1000 East Apache Boulevard. The applicant is Snell & Wilmer LLP. (Ordinance No. 2013.04)

- *D5. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Hold the second and final public hearing to adopt an ordinance for an Amended Planned Area Development Overlay consisting of a new six-story 341 unit multi-family residential development for THE HANOVER PROJECT, located at 101 West 5th Street. The applicant is Gammage & Burnham PLC. (Ordinance No. 2013.05)

E. Resolutions

E1. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution authorizing the Mayor to execute an intergovernmental agreement between the Salt River Pima – Maricopa Indian Community and the City of Tempe for the purpose of accepting and disbursing a portion of the 12% gaming proceeds for 2012. (Resolution No. 2013.01)

E2. **THIS ITEM WAS REMOVED FOR SEPARATE CONSIDERATION. SEE BELOW FOR DISCUSSION AND ACTION.** Adopt a resolution authorizing the Mayor to execute funding agreements between the City of Tempe and 13 non-city recipients for the disbursement of a portion of the Salt River Pima – Maricopa Indian Community 12% gaming proceeds for 2012. (Resolution No. 2013.02)

E3. Adopted **RESOLUTION NO. 2013.03** authorizing the Mayor to execute the Grant Award Agreements between the State of Arizona, Governor's Office of Highway Safety and the City of Tempe to enhance the DUI Enforcement Program and Education throughout Tempe. (**Contract #2013-07**)

Fiscal Impact: The amount of the total grant award is \$30,000. Sufficient budget appropriation for expenditure of this grant was authorized in the Police Department RICO and Grants Fund (Fund 45) as part of the fiscal year 2012-13 adopted budget.

E4. Adopted **RESOLUTION NO. 2013.04** authorizing the Mayor to execute the Grant Award Agreement between the Federal Emergency Management Agency and the City of Tempe for the purpose of accepting and spending a federal grant, 2012 Staffing for Adequate Fire and Emergency Response for the purpose of hiring three firefighters. (**Contract #2013-08**)

Fiscal Impact: The amount of the grant award is \$445,332 in federal funds. Acceptance of this grant does not require any matching City funds. This grant award will supplement the Fire Department's existing General Fund budget appropriation. Sufficient budget appropriation for expenditure of this grant was authorized in the Governmental Grants and Donations Fund (Fund 46) as part of the fiscal year 2012-13 adopted budget.

E5. Adopted **RESOLUTION NO. 2013.05** approving the purchase of property for a new City water well site located north of the intersection at McClintock Drive and East Warner Road.

Fiscal Impact: The purchase price of the property is \$130,000.00. Funds have been appropriated through Capital Improvement Project number 3200019.

E6. Adopted **RESOLUTION NO. 2013.06** authorizing the Mayor to sign the amended and restated White Mountain Apache Tribe Water Rights Quantification Agreement; the Lease Agreement for Central Arizona Project water among the City of Tempe, the White Mountain Apache Tribe, and the United States; and the Waiver and Release of Claims. (**Contract #2013-09; #2013-10**)

Fiscal Impact: The financial terms have not changed since the original approval in 2009. The payment for the 100-year lease of CAP water will be \$5,469,750, adjusted by the Consumer Price Index – Urban Users (CPI-U) upon the Enforceability Date of the Quantification Agreement. The lease payments were included as part of the 5-year Capital Improvement Program budget that was adopted for Fiscal Year 2012/13. The payments are estimated to begin in Fiscal Year 2015/16.

AGENDA ITEM(S) REMOVED FOR SEPARATE CONSIDERATION:

- *A2.** Held a public hearing and approved an appeal for a Development Plan Review consisting of a new six-story 341 unit multi-family residential development for THE HANOVER PROJECT, located at 101 West 5th Street. The appellant is Gammage & Burnham PLC.

Fiscal Impact: While this project does not directly impact revenue, the planned development will result in the collection of 50% of the required development fees which are deferred, pursuant to the adopted development agreement calculated according to the approved fee structure.

The following conditions of approval apply:

1. An Amended Subdivision Plat is required for this development and shall be recorded prior to issuance of building permits.
2. An Encroachment Permit must be obtained from the Engineering Department prior to submittal of construction documents for building permit. The limitations of this encroachment include;
 - a. A maximum projection of eight (8) feet for any upper level balconies or decorative architectural features of the building,
 - b. A minimum clear height distance of nine (9) feet between the sidewalk level and any overhead removable structures and twenty-four (24) feet for permanent overhead structures,
 - c. Maintaining a clear pedestrian pathway clearance of eight (8) feet in width, and
 - d. Any other requirements described in the encroachment permit process.
3.
 - a. Provide a total minimum 14'-0" wide public sidewalk along 5th Street, including street curb, and as required by Traffic Engineering Design Criteria and Standard Details. This excludes accommodations for existing electrical switch cabinets, stairs and hand railings.
 - b. Provide an eight (8) foot clear unobstructed pathway clearance along 5th Street and Maple Avenue.
4. 6th Street (private road) shall provide for a minimum six (6) foot clear pathway without obstructions.
5. Provide gates of steel vertical picket, steel mesh, steel panel or similar construction. Where a gate has a screen function and is completely opaque, provide vision portals for visual surveillance. Provide gates of height that match that of the adjacent enclosure walls. Review gate hardware with Building Safety and Fire staff and design gate to resolve lock and emergency ingress/egress features that may be required.
6. Design driveway aprons using the approved downtown design detail, which includes a brick sidewalk.
7. Utility equipment boxes for this development shall be finished in a neutral color (subject to utility provider approval) that compliments the coloring of the buildings.
8. Place exterior, freestanding reduced pressure and double check backflow assemblies in pre-manufactured, pre-finished, lockable cages (one assembly per cage). If backflow prevention or similar device is for a 3" or greater water line provide an alternate design using wrought iron and plant material for screening.
9. Shade canopies for parking areas:
 - a. Provide an 8" fascia for the canopy structure.
 - b. Maximum 75% light reflectance value shall also apply to the top of the canopy.
 - c. Relate canopy in color and architectural detailing to the buildings.
 - d. Conceal lighting conduit in the folds of the canopy structure and finish conduit to match.
10. A security plan is required for this development. Coordinate plans with the Tempe Police Crime Prevention team, prior to submitting construction plans.

11. Exit Security:
 - a. Provide visual surveillance by means of fire-rated glazing assemblies from stair towers into adjacent circulation spaces.
 - b. Closed Circuit Television required near exit hallways and in exit points into parking garage. Additional locations may be required as a part of the security plan process.
12. Amenity Restroom Security:
 - a. Lights in restrooms:
 - 1) Provide 50% night lights
 - 2) Activate by automatic sensors, key or remote control mechanism
 - b. Single user restroom door hardware:
 - 3) Provide a key bypass on the exterior side
13. Garage Security:
 - a. Minimize interior partitions or convert these to semi-opaque screens to inhibit hiding behind these features.
 - b. Provide exit stairs that are open to the exterior as indicated.
 - c. Paint interior wall and overhead surfaces in garage floor levels with a highly reflective white color, minimum LRV of 75 percent.
 - d. Maximize openness at the elevator entrances and stair landings to facilitate visual surveillance from these pedestrian circulation areas to the adjacent parking level.
14. Parking Garage:
 - a. Minimum required parking dimensions shall be clear of any obstructions.
 - b. At the ends of dead-end drive aisles at the lower garage level, provide a designated turn-around space, minimum 8'-6" clear in width (locate on left side if available), including 3'-0" vehicular maneuvering area for exiting. Turn-around space shall be clearly demarcated.
 - c. Provide a minimum 2'-0" of additional width, beyond the standard parking width, for parking spaces when adjacent to a continuous wall.
15. All vertical elements, excluding spandrels between the windows, between the 2nd level floor and 6th level floor located south of the west garage entrance shown on the west building elevation, dated October 19, 2012, shall be full brick veneer with all brick panels to return to inside corners.
16. The owner of the property located at 602 South Ash Avenue, Tempe, shall be notified by the applicant if there are any design changes, including administrative requests, pertaining to the south and west building elevations.
17. The materials and colors are approved as presented:
Brick 1: Interpace Thin Brick Veneer "Redwood"
CMU 1: Featherlite 6"x8"x4" 706 "Hill Country White"
Stone 1: Cast Stone: S-15 color, LSB finish
Stucco 1: MB 2104-20 "Beaver Brown"
Stucco 2: Sherwin Williams SW7036 "Accessible Beige"
Stucco 3: Sherwin Williams SW7562 "Roman Column"
Metal 1: SW6003 "Proper Gray"
Door 1: BM 2104-20 "Beaver Brown"
Canopy 1: SW 6006 "Black Bean"
Provide main colors and materials with a light reflectance value of 75 percent or less. Specific colors and materials exhibited on the materials sample board are approved. Additions or minor alterations may be submitted for review during building plan check process.
18. Provide secure roof access from the interior of the building. Do not expose roof access to public view.
19. Conceal roof drainage system within the interior of the building, not visible from the street.

20. Incorporate lighting, address signs, and incidental equipment attachments (alarm klaxons, security cameras, etc.) where exposed into the design of the building elevations. Exposed conduit, piping, or related materials is not permitted.
21. Locate the electrical service entrance section (S.E.S.) inside the building or inside a secure yard that is concealed from public view.
22. Upper/lower divided glazing panels in exterior windows at grade level, where lower glass panes are part of a divided pane glass curtain-wall system, shall be permitted only if laminated glazing at these locations is provided.
23. Illuminate building entrances and underside of open stair landings from dusk to dawn to assist with visual surveillance at these locations.
24. The plant palette is approved as proposed and specified on the landscape plan. Any additions or modifications may be submitted for review during building plan check process.
25. Provide additional streetscape amenities consisting of the following, bike loop (design variable), trash bins, or benches.
26. Irrigation notes:
 - a. Provide dedicated landscape water meter.
 - b. Provide pipe distribution system of buried rigid (polyvinylchloride), not flexible (polyethylene). Use of schedule 40 PVC mainline and class 315 PVC ½" feeder line is acceptable. Class 200 PVC feeder line may be used for sizes greater than ½". Provide details of water distribution system.
 - c. Locate valve controller in a vandal resistant housing.
 - d. Hardwire power source to controller (a receptacle connection is not allowed).
 - e. Controller valve wire conduit may be exposed if the controller remains in the mechanical yard.
27. Include requirement to de-compact soil in planting areas on site and in public right of way and remove construction debris from planting areas prior to landscape installation.
28. Top dress planting areas with a rock or decomposed granite application. Provide rock or decomposed granite of 2" uniform thickness. Provide pre-emergence weed control application and do not underlay rock or decomposed granite application with plastic.
29. Trees shall be planted a minimum of 12'-0" from any existing or proposed public water or sewer lines located on-site. Trees near the main water or sewer lines located within the right of way shall be planted at least 20'-0" away. Final approval subject to determination by the Public Works, Water Utilities Division.
30. The tree planting separation requirements may be reduced from the waterline upon the installation of a linear root barrier, a minimum of 6'-0" parallel from the waterline, or around the tree. The root barrier shall be a continuous material, a minimum of 0.08" thick, installed 0'-2" above finish grade to a depth of 8'-0" below grade. Final approval subject to determination by the Public Works, Water Utilities Division.
31. Provide address sign(s) on the building elevation, at or below the 2nd level, facing the street to which the property is identified, located on the east and west ends of the elevation. Additional addressing may be provided, using the full street address.
 - a. Conform to the following for primary building address signs:
 - 1) Provide street number only, not the street name on primary address
 - 2) Compose of 12" high, individual mount, metal reverse pan channel characters.
 - 3) Self-illuminated or dedicated light source.
 - 4) Coordinate address signs with trees, vines, or other landscaping to avoid any potential visual obstruction.
 - 5) Do not affix number or letter to elevation that might be mistaken for the address.
 - b. Utility meters shall utilize a minimum 1" number height in accordance with the applicable electrical code and utility company standards.

Councilmember Ellis declared a conflict of interest.

Councilmember Navarro stated that this is a good project and is good for the area. He expressed concerns relating to building height, lack of retail on the first floor, and the ability to produce quality projects while being land-locked. He stated that the City needs to take advantage of what it can, and utilize developments for the best possible resources.

Motion by Councilmember Granville to approve item 5A2; second by Councilmember Woods. Motion passed on a roll call vote 6-0-1, with Councilmember Ellis abstaining.

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- *D3.** Held the second and final public hearing and adopted **ORDINANCE NO. 2013.03** for a Planned Area Development Overlay consisting of a new 4,027 square foot restaurant/drive-thru building with 1,300 square feet of outdoor dining for CHICK-FIL-A, located at 25 West University Drive. The applicant is Kerr Project Services Inc.

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

The following conditions of approval apply:

1. A building permit application shall be made on or before January 10, 2015, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than February 9, 2013, or the Planned Area Development Overlay approval shall be null and void.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.

Councilmember Granville and Lisa Collins, Interim Community Development Director, discussed lighting and cameras in the alley; staff is working with the Public Works Department regarding the possibility of installing a streetlight at the location. Staff will look into security cameras at the location. Ms. Collins stated that she understands that the business owner is amenable to installing security cameras and lighting. The lighting will be designed in such a way as to minimize light trespass.

Motion by Councilmember Granville to approve item 5D3.

Mayor Mitchell opened the public hearing.

Kent Oertle, Phoenix, Tempe property owner, made the following comments regarding the project: concern with illegal activity occurring in the alley and the width of the alley not allowing fire trucks or refuse trucks to pass through; placement and screening of the dumpster. He requested that the City abandon the alley to private ownership and suggested moving the alley wall to the south, against his property line. He stated that he had not been contacted regarding the project.

Ms. Collins addressed Mr. Oertle's concerns: staff is discussing options relating to the alley; staff is aware of requests to abandon the alley and will work with the neighbors on alley issues. Additionally, the Neighborhood Services Division and the Police Department have been working with the neighbors. She stated that she would contact the Public Works Department regarding the placement of the dumpster and alley wall.

Karyn Gitlis, Tempe, stated her support of the project for the following reasons: property owner appreciates the neighborhood, will make a good neighbor, and has met with people and followed up on concerns; it is a good site plan with trash placement, landscape and hardscape buffers; parking is de-emphasized while pedestrians and bicyclists are catered to; parking spots will not be rented to students; owner/operator is onsite. She expressed concerns relating to traffic, on-street parking and the alley; she does not support abandoning the alley.

Deborah Kerr, applicant and property owner representative, made the following comments: the company is excited about locating in Tempe; the alley wall will be replaced by a wrought iron fence to allow for visibility into the alley and alleviate loitering; the applicant is working on options for lighting at the rear of the building that does not trespass onto neighbors' properties; the trash dumpster will have a wall around it and will also have a compactor to reduce odor and other issues.

Motion seconded by Vice Mayor Shekerjian.

Councilmember Arredondo-Savage expressed support for the project.

Motion to approve item 5D3 passed unanimously on a roll call vote 7-0.

***D4.** Held the second and final public hearing and adopted **ORDINANCE NO. 2013.04** for an Amended Planned Area Development Overlay consisting of a proposed mixed-use development including 326 dwelling units all within a fourteen story building for THE GROVE AT 1000 EAST APACHE, located at 1000 East Apache Boulevard. The applicant is Snell & Wilmer LLP.

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

The following conditions of approval apply:

1. A building permit application shall be made on or before January 10, 2015 or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner shall sign a waiver of rights and remedies form. By signing the form, the Owner voluntarily waives any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than February 11, 2013 or the Planned Area Development Overlay approval shall be null and void.
3. Prior to issuance of building permits, the Second Amended Planned Area Development Overlay document for the Grove at 1000 East Apache shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe Community Development Department.
4. The maximum residential density shall be one-hundred eighty-two dwelling units per acre (182 d./ac.).

5. The maximum building height of the main building volume to top of parapet including mechanical equipment except solar collectors shall be one-hundred sixty feet (160'-0"). The maximum building height including top of wind screens, solar collectors and all rooftop appurtenances, lightning arresting devices, obstruction light poles and uninhabited penthouses shall be one-hundred seventy feet (170'-0").
6. The minimum north rear yard building setback including overhangs shall be six feet (6'-0").
7. The minimum east side yard building setback including overhangs shall be thirteen feet (13'-0"). The ground level fire riser room and overhead building projections shall conform to this building setback. The main building volume shall be setback minimum 16'-0" from east property line.
8. The minimum side yard west setback of minimum six foot four inches (6'-4") is unchanged. The southwest stair tower and overhead building projections shall conform to this building setback.
9. The minimum four foot (4'-0") building west side and rear setback for the exclusive use of retaining walls for below grade vents for the garage is unchanged. The minimum zero (0'-0") building south side setback at the garage remains unchanged. The minimum seven foot (7'-0") building west side setback at the garage remains unchanged.
10. The maximum building lot coverage shall be seventy-three percent (73%).
11. The minimum ground level landscape lot coverage shall be fourteen percent (14%). In addition, maintain minimum 12,800 sf. of upper level landscape area consisting of pavement, pool and foliage areas.
12. Prior to issuance of building permit, contact adjacent property owner to north. Inform owner of existing emergency vehicle easement agreement and the intention of the Grove to provide access to this easement from 1000 East Apache via a gate for emergency access only.
13. Prior to issuance of building permit, by separate instrument, establish and record a 20'-0" wide public fire/emergency access easement through the site at 1000 East Apache from the north gate to Apache Boulevard. Design access control for the resident portion of the garage so it does not impede this access.
14. No Hazard to Air Navigation: submit building volume and height coordinates to the Federal Aviation Administration prior to first plan check submittal and receive approval of the finished building height and height of the construction tower crane from the Federal Aviation Administration prior to issuance of building permit.
15. Security Plan: provide a security plan for commercial and residential components of the site. Follow guidelines indicated in Security Section of Code-Ordinance requirements below. As part of the security plan, develop a comprehensive remote visual surveillance system that monitors the perimeter exit yards in the north, east and west sides of the building, in the ground level of the courtyard, in the leasing office and main lobby entrance including the elevator lobby, in the commercial space courtyard and Apache Boulevard entrances, in every garage level including the stair and elevator entrances, in the ninth level recreational and swimming pool level and the rooftop running track and basketball court, and in each residential level elevator lobby and within each elevator. Additionally, provide a management team to govern the housing portion of the property. Include the management team in the security plan meetings with the Police Department. Complete draft of Security Plan prior to issuance of building permit. Complete final Security Plan prior to issuance of Certificate of Occupancy.
16. Traffic Impact Study: submit revision prior to first plan check submittal and receive approval of the final Traffic Impact Study from Transit Studies Division prior to issuance of a building permit.
17. Site clearing and excavation: prior to clearing and excavation, develop a site monitoring process with the Salt River, Pima and Maricopa Indian Community. Provide a monitoring process during site excavation for prompt identification, protection and proper removal of archeological remains.

Mayor Mitchell opened the public hearing.

Philip Amorosi, Tempe, stated his opposition to the project for the following reasons: density; building height; an increase in the number of students, graffiti, vandalism, drugs and alcohol at Hudson Park; decreasing amount of owner-occupied housing. He asked if the Police Department budget will be increased due to the density.

Chuck Buss, Tempe, stated his opposition to the project for the following reasons: existing congestion on Apache Boulevard; developer not willing to change the design; building height; obstructed views. He stated that tall buildings belong downtown; five to ten stories is high enough for the area.

Nick Wood, applicant representative, made the following comments related to the project: the General Plan designates the area of Rural Road and Apache Boulevard as high-density with tall buildings and the developer is staying within that framework; a nationally recognized architectural firm designed the building. Mr. Wood also stated that the developer is one of the largest private student housing developers in the country that builds and then maintains the projects, rather than selling them. He also discussed public outreach, stating that all surrounding, adjacent neighbors have been contacted, including Mr. Buss and Mr. Amorosi. He spoke about the distance of the project from the existing residential areas. In photographs that were included in the City Council's meeting materials, an existing project, The Vue on Apache, could not be seen from the neighborhood. Of 109 people that the developer contacted, 99 were in support, four abstained, and six opposed the project.

The City Council, Mr. Wood and Alex Eyssen from Campus Crest, the property owner/developer, discussed the following relating to the project: property management, including how crime will be dealt with; Campus Crest differs from other student housing developers in that it does not sell the project once it is built and does not use a third-party management company; the possibility of the development registering as a neighborhood association to assist in getting the residents involved in their community.

The City Council and Lisa Collins, Interim Community Development Director, discussed the following relating to the project: the MU4 zoning district, in which the development standards are developed by the zoning application which allows for more creativity without having specific development standards; the General Plan 2040 Community Working Group reviewing land uses and densities, although the Group's recommendation would be area-based instead of directly impacting the MU4 district; whether or not the City Council is bound by the previously passed State proposition 207, in terms of restricting building heights.

The City Council also discussed a saturation point for student housing projects. Mayor Mitchell and Councilmember Arredondo-Savage are working on this issue with Arizona State University and will provide information once the data has been fully gathered. City Council continued discussions regarding a disconnect between the Development Review Commission (DRC) and the City Council's vision and potential solutions; concerns that the DRC has about larger projects, including height, density and out-of-date code requirements; the potential for Mr. Amorosi to work towards down-zoning his neighborhood as the General Plan 2040 is being worked on; looking at establishing building height minimums in addition to height maximums.

Motion by Vice Mayor Shekerjian to approve item 5D4; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 7-0.

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- *D5.** Held the second and final public hearing and adopted **ORDINANCE NO. 2013.05** for an Amended Planned Area Development Overlay consisting of a new six-story 341 unit multi-family residential development for THE HANOVER PROJECT, located at 101 West 5th Street. The applicant is Gammage & Burnham PLC.

Fiscal Impact: While this ordinance change does not directly impact revenue, the planned development will result in the collection of 50% of the required development fees which are deferred, pursuant to the adopted development agreement calculated according to the approved fee structure.

The following conditions of approval apply:

1. A building permit application shall be made on or before January 10, 2015, or the zoning of the property may revert to that in place at the time of application. Any reversion is subject to a public hearing process as a zoning map amendment.
2. The property owner(s) shall sign a waiver of rights and remedies form. By signing the form, the Owner(s) voluntarily waive(s) any right to claim compensation for diminution of Property value under A.R.S. §12-1134 that may now or in the future exist, as a result of the City's approval of this Application, including any conditions, stipulations and/or modifications imposed as a condition of approval. The signed form shall be submitted to the Community Development Department no later than February 10, 2013, or the Planned Area Development approval shall be null and void.
3. The Planned Area Development Overlay shall be put into proper engineered format with appropriate signature blanks and kept on file with the City of Tempe's Community Development Department prior to issuance of building permits.

Councilmember Ellis declared a conflict of interest.

Mayor Mitchell opened the public hearing; no one wished to address the City Council on this agenda item.

Manjula Vaz, applicant representative, acknowledged and thanked Councilmember Navarro for his earlier comments relating to agenda item 5A2. She stated that in the future there may be opportunities for retail along Fifth Street, specifically in the first floor of buildings.

Councilmember Navarro stated his concern for making sure that the use of space is maximized. While this project would have been a good opportunity for additional building height and first-floor retail, the development is good and will bring professionals into Tempe to live at these apartments. He stated that in the future, the issue of maximizing space will be looked at more closely.

Motion by Vice Mayor Shekerjian to approve item 5D5; second by Councilmember Arredondo-Savage. Motion passed on a roll call vote 6-0-1, with Councilmember Ellis abstaining.

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- E1.** Adopted **RESOLUTION NO. 2013.01** authorizing the Mayor to execute an intergovernmental agreement between the Salt River Pima – Maricopa Indian Community and the City of Tempe for the purpose of accepting and disbursing a portion of the 12% gaming proceeds for 2012. **(Contract #2013-05)**

Fiscal Impact: For 2012, of the \$1,486,019 to be distributed SRPMIC has awarded \$48,000 to the City of Tempe for the Early Literacy skills tutoring program and \$300,000 to the Rio Salado Foundation for Eisendrath House renovations. The remaining \$1,138,019 gaming proceeds has been awarded to 12 area non-city organizations.

- E2.** Adopted **RESOLUTION NO. 2013.02** authorizing the Mayor to execute funding agreements between the City of Tempe and 13 non-city recipients for the disbursement of a portion of the Salt River Pima – Maricopa Indian Community 12% gaming proceeds for 2012. **(Contract #2013-06A-M)**

Fiscal Impact: Through this resolution 13 non-city organizations, which were awarded a combined total of \$1,438,019 of Salt River Pima – Maricopa Indian Community gaming proceeds by Salt River Pima – Maricopa Indian Community, are able to receive their monies for a variety of community related programs or projects. Because approval of this resolution only applies to non-city organizations, this action does not have a

direct impact to any of the City of Tempe's funds. To note, Salt River Pima – Maricopa Indian Community awarded \$48,000 to the City of Tempe for the Early Literacy skills tutoring program and \$300,000 to the Rio Salado Foundation for Eisendrath House renovations.

Councilmember Ellis requested an explanation of the process for agencies to apply for these funds. Jeff Kulaga, Assistant City Manager, responded as follows: Arizona State Statute requires 12% of gaming funds be distributed to various jurisdictions and non-profit agencies throughout Arizona; the statute requires a county or municipality to act as a pass-through agency to distribute the funds to the organizations that have been awarded a portion of the gaming proceeds. He explained that in the case of the Salt River Pima – Maricopa Indian Community, the applications are made directly to the Tribe, not to the City. The City solely acts as a pass-through to distribute the funds once they have been awarded.

Councilmember Ellis requested that staff update the City website to provide the correct contact information for agencies wishing to learn more about the process.

Motion by Councilmember Ellis to approve items 5E1 and 5E2; second by Councilmember Granville. Motion passed on a roll call vote 7-0.

Manager's Announcements – Charlie Meyer, City Manager, announced that this is the final City Council Meeting for Travis Dray, Deputy Community Services Director. He thanked Mr. Dray for his work, specifically relating to special events.

6. CURRENT EVENTS/COUNCIL ANNOUNCEMENTS/FUTURE AGENDA ITEMS

Councilmember Woods

- Happy New Year.

Councilmember Granville

- PF Chang's Marathon on January 20, 2013.
- Polar Bear Plunge at Tempe Town Lake on Saturday January 12, 2013; money raised is for Tempe's Adapted Recreation Programs.

Councilmember Navarro

- Java with Joel was a success; next event will be on January 19, 2013 from 9:00 a.m. – 10:00 a.m. at P'Croissant at 7520 South Rural Road.

Councilmember Arredondo-Savage

- PF Chang's Marathon on January 20, 2013.
- Geeks' Night Out on February 21, 2013.
- Thanked Travis Dray.

Vice Mayor Shekerjian

- Thanked Travis Dray.
- New Year's Eve event was a success; acknowledged and thanked people involved in the event.
- Tempe 311 program.

Councilmember Ellis

- City of Phoenix groundbreaking on new three-mile stretch of light rail on January 12, 2013.
- Thanked Travis Dray.

Mayor Mitchell

- Happy New Year.
- New Year's Eve event was a success; estimated approximately 40,000 – 50,000 people attended.
- Thanked Travis Dray.
- PF Chang's Rock 'n' Roll Marathon on January 20, 2013.

7. PUBLIC APPEARANCES

A. Scheduled – None.

B. Unscheduled

Eleanor Holguin, Tempe, voiced her concern about Police Chief Tom Ryff, and provided a history of her concerns.

The meeting adjourned at 9:20 p.m.

I, Brigitta M. Kuiper, the duly-appointed City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the above to be the minutes of the Formal City Council meeting of January 10, 2013, by the Tempe City Council, Tempe, Arizona.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk